IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9434 of 2005

Between:

Aided Elementary School Rep by its Manager Correspondent. Sri. P.Mallikarjuna Rao. S/o.P.Venkateswarlu R/o.Gurramvari Street, Kavali, Nellore District.

..... PETITIONER

AND

1 The Govt of A.P, Rep by its Secretary
School Education Department Secretariat, Hyderabad
2 The Commissioner and Director of School Education
A.P, Hyderabad.
3 The District Educational Officer
Nellore.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ specially Writ of Mandamus declaring the Proceedings Rc.No.3774/C!/2004 dt.3-12-2004 of 3rd Respondent as illegal, arbitrary and Unjust and consequently direct the Respondents 1 to 3 to approve the Selected Candidate to aided Secondary Grade Teacher Post as per the selection made by the Staff Selection Committee on 20-10-2004 not with standing the ban imposed under the Memo dt.20-10-2004 forthwith.

Counsel for the Petitioner: MR.RAJ KUMAR RUDRA

Counsel for the Respondents: GP FOR EDUCATION

The Court at the stage of admission made the following:

ORDER:

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This writ petition is filed seeking a Writ of Mandamus declaring the proceedings dated 03-12-2004 of the third respondent as arbitrary and illegal and consequently to direct the respondents 1 to 3 to approve the Selected candidate to aided Secondary Grade Teacher posts as per the selection made by the Staff Selection Committee on 20-10-2004 not withstanding the ban imposed under the memo dated 20-10-2004 forthwith.

It is stated that two aided Secondary Grade Teacher posts fell vacant in the petitioner School and for filling up the said posts, the petitioner has already taken all the necessary steps and the Competent Authority has also accorded the necessary permission vide proceedings dated 27-08-2004, in pursuance of which the Staff Selection Committee was constituted and the candidates were selected. However, the third respondent has passed the proceedings dated 03-12-2004 returning the proposals for approval of the Competent Authority and consequently the appointments could not be made in view of the General Ban on Recruitment imposed by the Government under the Memo dated 20-10-2004.

The contention of the petitioner is that the General Ban under Memo dated 20-10-2004 cannot be made applicable to the case on hand since the Competent Authority has accorded necessary permission to fill up the posts much prior to the ban imposed under the Memo dated 20-10-2004. In support of the said contention, the learned Counsel for the petitioner has relied upon a decision of this Court in

W.P.No.22188 of 2004, wherein this Court has dealt with an identical issue. This Court, having considered the scope of Memo dated 20-10-2004, held that in the Memo dated 20-10-2004 though it is stated that no new posts of grant-in-aid would be created and the existing vacancies will also not be filled up, in the very same Memo it is stated that the general ban is not applicable for the posts for which permission was specifically granted by the Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the Memo dated 20-10-2004.

The learned Counsel for the petitioner submits that the ratio laid down in the said decision squarely applies to the case on hand and therefore the petitioner may be permitted to fill up the vacancies in question notwithstanding the ban imposed under Government Memo dated 20-10-2004.

The learned Government Pleader for School Education appearing for the respondents does not dispute the same.

Accordingly, the impugned order dated 03-12-2004 is set aside and the Writ Petition is disposed of with a direction to the respondents 1 to 3 to pass orders of approval in accordance with law notwithstanding the ban imposed under the Memo dated 20-10-2004 so as to enable the petitioner to fill up the vacant posts.

The Writ Petition is accordingly disposed of. No order as to costs.

G. ROHINI, J

Dated: 26-04-2005

LSK

To

1 The Secretary,
School Education, Secretariat , Hyderabad.
2 Commissioner & Director of School Education, A.P. Hyderabad
3 The District Educational Officer
Nellore.

5 Two C.Cs. to the G.P. for Education, High Court Buildings, Hyderabad.
(OUT)

6 Two C.D. copies.